

In the Claims:

SUB C1

1. (Amended) A composition comprising a first nucleic acid construct comprising a first gene whose expression is controlled by a first promoter whose function is suppressed in non-tumor cells relative to tumor cells, and a second nucleic acid construct comprising a second gene whose gene product suppresses expression of said first gene, wherein the expression of said second gene is controlled by a second promoter that is up-regulated in non-tumor cells relative to tumor cells, such that said first gene is expressed in tumor cells and suppressed in non-tumor cells.

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2. (Amended) The composition according to claim 1 wherein said second gene of said second nucleic acid construct encodes an antisense RNA transcript complementary to a sequence within mRNA encoded by said first gene of said first nucleic acid construct.

3. (Amended) The composition according to claim 1 wherein said second gene of said second nucleic acid construct encodes a ribozyme specific for a sequence within mRNA encoded by said first gene of said first nucleic acid construct.

4. (Amended) The composition according to claim 1 wherein said second gene of said second nucleic acid construct encodes a sequence-specific transcriptional suppressor and said first nucleic acid construct comprises a binding site recognized by said sequence-specific transcriptional suppressor.

5. (Amended) The composition according to claim 4 wherein said sequence-specific transcriptional suppressor is a *lac* operator suppressor.

6. (Amended) The composition according to claim 4 wherein said sequence-specific transcriptional suppressor comprises a *tet* repressor DNA-binding domain and a transcriptional suppression domain of the *Drosophila* KRAB transcription factor.

7. (Amended) The composition according to claim 4 wherein said sequence-specific transcriptional suppressor comprises a Gal-4 DNA-binding domain and a transcriptional suppression domain of the *Drosophila even-skipped* transcription factor.

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8. (Twice Amended) The composition according to claim 1 wherein said first nucleic acid construct and said second nucleic acid construct are each on separate nucleic acid vectors.

9. (Twice Amended) The composition according to claim 1 wherein said first nucleic acid construct and said second nucleic acid construct are on a single nucleic acid vector.

10. (Amended) The composition according to claim 9 comprising an insulator sequence between said first nucleic acid construct and said second nucleic acid construct.

11. (Twice Amended) The composition according to claim 10 wherein said nucleic acid vector is a viral vector.

12. (Twice Amended) The composition according to claim 1 wherein said second promoter of said second nucleic acid construct comprises a p53 binding site sequence or CMV promoter.

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13. (Amended) The composition according to claim 12 wherein said second nucleic acid construct comprises said p53 binding site sequence downstream of a TATA Box and downstream of the transcriptional start site of said second promoter of said second nucleic acid construct.

14. (Twice Amended) ~~The composition according to claim 1 wherein said first promoter of said first nucleic acid construct is up-regulated in tumor cells relative to non-tumor cells.~~

SUB C2
15. (Amended) ~~The composition according to claim 14 wherein said first promoter is the HSP70 promoter.~~

16. (Twice Amended) ~~The composition according to claim 1 wherein said first gene is a reporter gene.~~

17. (Twice Amended) The ~~composition~~ according to claim 1 wherein said first gene encodes an antitumour agent.

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concluded.

18. (Amended) The composition according to claim 17 wherein said antitumour agent is a pro-drug activating enzyme.

19. (Amended) The composition according to claim 18 wherein said pro-drug activating enzyme is a thymidine kinase.

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21. (Amended) The cell according to claim 20 which is a tumor cell.

23. (Amended) The method according to claim 22 wherein said cell is a tumor cell.

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24. (Twice Amended) The method according to claim 23 wherein said first nucleic acid construct and said second nucleic acid construct are introduced into said cell *in vitro*.
